

APPEAL NO. 010853
FILED JUNE 6, 2001

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on March 27, 2001. With regard to the disputed issue before her the hearing officer determined that the respondent (claimant) sustained a compensable injury on _____, and that the claimant had disability from November 7, 2000, to the present resulting from the injury. The appellant (self-insured) has appealed, contending that the hearing officer's findings of fact and conclusions of law are unclear as to what parts of claimant's body were injured, that there is no specific finding of fact or conclusion of law that the claimant's injury was an aggravation of his prior compensable injury, and that there is no evidence to support a finding, or conclusion, that the claimant sustained either a new injury or an aggravation of a prior compensable injury. The file contains no response from the claimant.

DECISION

A timely appeal not having been filed by the self-insured with the Texas Workers' Compensation Commission (Commission) and the jurisdiction of the Appeals Panel not having been properly invoked, the decision and order of the hearing officer have become final.

Section 410.202(a) provides that "[t]o appeal the decision of a hearing officer, a party shall file a written request for appeal with the appeals panel not later than the 15th day after the date on which the decision of the hearing officer is received from the division and shall on the same date serve a copy of the request for appeal on the other party." Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 143.3(c) (Rule 143.3(c)) provides that a request for review shall be presumed to be timely filed if it is: (1) mailed on or before the 15th day after the date of receipt of the hearing officer's decision; and (2) received by the Commission not later than the 20th day after the date of receipt of the hearing officer's decision. Both portions of Rule 143.3(c) must be complied with for an appeal to be timely. Texas Workers' Compensation Commission Appeal No. 010112, decided February 13, 2001.

Pursuant to Rule 102.5(d), unless the great weight of evidence indicates otherwise, the carrier is deemed to have received the hearing officer's decision the first working day after the date the written communication was placed in a carrier's Austin representative box, or, in this case, on Monday, April 2, 2001. The last day for the carrier's appeal to have been timely mailed was Tuesday, April 17, 2001, and the last day for the claimant's appeal to have been timely received by the Commission was Monday, April 23, 2001. The appeal was not received until April 24, 2001.

The self-insured's appeal being untimely, the decision of the hearing officer has become final. Section 410.169.

Judy L. S. Barnes
Appeals Judge

CONCUR:

Michael B. McShane
Appeals Judge

Robert L. Potts
Appeals Judge